

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Keith, et al. Confirmation No.: 2818  
Patent No.: 7,501,118 B2 Group Art Unit: 1647  
Serial No.: 10/670,184  
Filed: September 24, 2003 Examiner: Saoud, Christine J.  
For: HUMAN GENE RELATING TO RESPIRATORY DISEASES AND OBESITY

**REQUEST FOR RECONSIDERATION OF THE DECISION ON APPLICATION FOR  
PATENT TERM ADJUSTMENT**

Mail Stop **Petitions**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby request reconsideration of the Decision On Application For Patent Term Adjustment ("Decision") that was issued by the U.S. Patent and Trademark Office on September 29, 2009. The Decision was in response to applicants Petition for Reconsideration of the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) for U.S. Patent No. 7,501,118 which was timely filed on May 8, 2009.

Applicants submit herewith (1) a copy of the Office's Decision on the petition filed under 37 C.F.R. §1.705(d) and (2) a statement of the facts. Applicants believe that no payment is required, since the statement of facts presented herein are substantially the same as those previously presented on May 8, 2009.

Under 37 C.F.R. §1.7(a) when the last day to take action falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the action may be taken on the next succeeding business day which is not a Saturday, Sunday, or Federal holiday. Therefore, this document is timely filed on Monday, November 30, 2009.

### **STATEMENT OF FACTS**

On September 24, 2003, the application which issued as U.S. Patent No. 7,501,118 B2 was filed in the U.S. Patent & Trademark Office (USPTO), thus qualifying for Patent Term Adjustment (PTA) under 35 U.S.C. §154. The instant application is not currently subject to a terminal disclaimer.

On March 10, 2009, the USPTO issued the above-referenced patent indicating that the Patent Term Adjustment Under 35 U.S.C. 154(b) was **683** days (see Exhibit 1).

We have reviewed the prosecution history of the above-referenced application and confirm that the term calculation by the USPTO is 683 days according to **35 U.S.C. § 154(b)(1)(B)** (i.e., 898 days delayed by USPTO in issuing the patent beyond 3 years – 215 days delayed by applicants) (see Exhibit 2). However, this term adjustment fails to consider the delays by the USPTO during prosecution of the application according to **35 U.S.C. § 154(b)(1)(A)**.

In relevant part, 35 U.S.C. § 154 states (emphasis added):

(b)ADJUSTMENT OF PATENT TERM.—

(1)PATENT TERM GUARANTEES.—

(A)GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES.—  
Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

(i)provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title **not later than 14 months after**—

(l)the date on which an application was filed under section 111(a) of this title; or

\* \* \*

(B)GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY.— Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the **failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date** of the application in the United States, not including—

\* \* \*

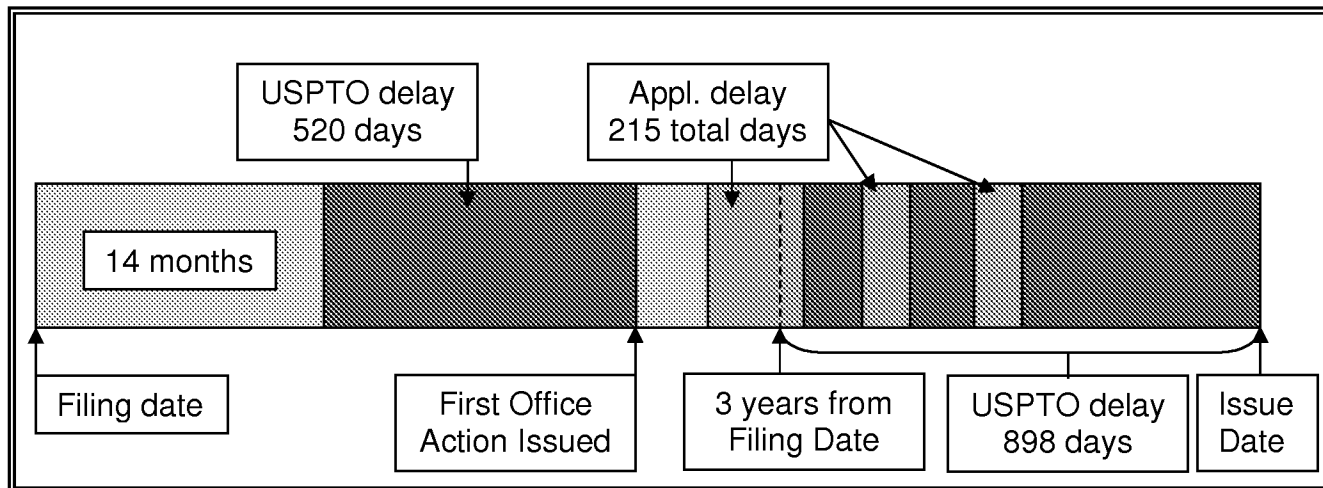
Applicants submit that the correct patent term calculation under 35 U.S.C. § 154 for the above-referenced patent is **1203 days**. Applicants' calculation of PTA properly includes:

1. 520 days of delay by the USPTO in issuing the first Office Action after 14 months from the filing date (from November 24, 2004 to April 28, 2006);
2. 898 days of delay by the USPTO in issuing the patent beyond 3-years-from-filing-date (from September 24, 2006 to March 10, 2009); and
3. An adjustment of 215 days of delay by the applicant during prosecution (three responses submitted with petitions for extensions of time).

Exhibit 2 (submitted herewith) is a printout from the USPTO PAIR website which shows the USPTO's calculations of the number of days of delay by the USPTO and applicants for the subject patent. These calculations are in accordance with the applicants' determination above. Therefore, based on the proper interpretation of 35 U.S.C. § 154, applicants are entitled to **1203 days** of PTA (520 days + 898 days – 215 days).

Furthermore, as shown in the illustration below, the proper patent term adjustment calculated by applicants **does not** include any overlapping days or double counting of days. Any calendar day where there was a delay due to the USPTO is only

counted one time. In other words, applicants did not include any days of delay during prosecution which may have overlapped with days of delay in issuing the patent beyond 3 years from the filing date. Therefore, based on the proper interpretation of 35 U.S.C. § 154, applicants are entitled to **1203 days** of PTA (520 days + 898 days – 215 days).



Applicant's view is supported by recent case law interpreting 35 U.S.C. § 154. Wyeth, et al. v. Jon W. Dudas, 580 F. Supp. 2d. 138 (D.D.C. 2008). In Wyeth the federal District Court for the District of Columbia granted summary judgment in favor of Wyeth, determining that the U.S. Patent and Trademark Office had misconstrued 35 U.S.C. § 154(b)(2)(A). As a result, the Office had denied Wyeth a portion of patent term to which it was entitled under the law. Wyeth held, and the court agreed, that the proper PTA includes USPTO delays before the 3-years-from-filing date plus all delays between the 3-years-from-filing date and the issue date, less applicant delays; and, that this would not constitute impermissible "double-counting" of delay periods.

The Decision issued by the USPTO on September 29, 2009 dismissed applicants' petition. The Decision contends that applicants' interpretation of the period

of overlap is inconsistent with the Office's interpretation (Decision, page 2). The Decision points to 35 U.S.C. 154 and 37 C.F.R. 1.703 to allegedly support the USPTO's interpretation of the period of overlap. Applicants assert that the USPTO's interpretation of the statute and related rule is incorrect and inconsistent with the District Court's interpretation in the Wyeth case.

Furthermore, the USPTO improperly imports language into the statute to arrive at their interpretation. For example, the Decision states:

the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting **either** patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), **or** patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 154(b)(1)(A)(i)-(iv) and 35 U.S.C. 154(b)(1)(B). (Decision, page 3) (emphasis added).

However, the statute does not provide any indication that the patent term should be calculated according to an "either... or" method. Importantly, the word "or" does not appear between sections 154(b)(1)(A) and 154(b)(1)(B). Furthermore, there is no other indication within the statute that explicitly or implicitly states that only one provision can be used in determining the patent term and that both provisions cannot be applied together. Therefore, there is nothing in the statute or related rule that precludes the application of both sections together.

Applicants respectfully assert that the USPTO's Determination of PTA has been improperly calculated and respectfully request adjustment of the 520 days of PTA to **1203 days**. Therefore, applicants respectfully request (1) reconsideration of the Dismissing Request for Reconsideration of Patent Term Adjustment and (2)

reconsideration of the Patent Term Adjustment to provide U.S. Patent No. 7,501,118 with the correct Patent Term Adjustment of 1203 days.

### **CONCLUSION**

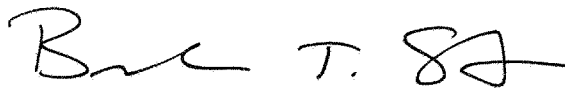
In considering the evidence as detailed in Image File Wrapper and Transaction History of the Patent Application Information Retrieval (PAIR) system, Applicants respectfully request reconsideration of the Patent Term Adjustment and request that the patent which issues from the instant application be accorded the correct Patent Term Adjustment.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **504827**, Order No. 1004438.015US.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **504827**, Order No. 1004438.015US.

Respectfully submitted,  
Locke Lord Bissell & Liddell LLP



Dated: November 30, 2009

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3 WORLD FINANCIAL CENTER  
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**OFFICE OF PETITIONS**

In re Patent No. 7,501,118	:
Issued: March 10, 2009	: DECISION ON APPLICATION
Application No. 10/670,184	: FOR PATENT TERM ADJUSTMENT
Filed: September 24, 2003	:
Attorney Docket No. 2976-4039US3	:

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed May 8, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred eighty-three (683) days to one thousand two hundred three (1203) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 10, 2009, the above-identified application matured into US Patent No. 7,501,118 with a patent term adjustment of 683 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 1203 days, which includes 898 days of patent term adjustment due to exceeding three year pendency and 520 days due to USPTO delay in prosecution."

The 898-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on September 24, 2003, and the patent having been issued on March 10, 2009, three years and 898 days later. Patentees assert that in addition to this 898-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 520 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).



Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 215 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (898 days) and the period of Examination Delay (520 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1418 days, which is the sum of the period of Three Year Delay (898 days) and the period of Examination Delay (520 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 1203 days (898 + 520 reduced by 0 overlap – 215 (applicant delay)).

The Office agrees that as of the issuance of the patent on March 10, 2009, the application was pending three years and 898 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 520 days is correct. At issue is whether patentees should accrue 898 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 520 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 520 days examination delay overlaps with the period of 898 days of delay in issuance of the patent. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment

granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718<sup>1</sup>

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, September 24, 2003, to the date the patent issued on March 10, 2009. Prior to the issuance of the patent, 520 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. The 520 days of examination delay overlaps with the 898 days of delay in issuing the patent. During that time, the issuance of the patent was delayed by 898 days, not 520 days and 898 days. The Office took 14 months and 520 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 520 days of examination delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 898 days. The Office did not delay 520 days and also delay an additional 898 days. Accordingly, 898 days of patent term adjustment (not 520 and 898 days) was properly entered since the period of delay of

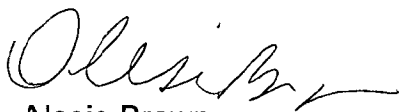
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<sup>1</sup> The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106<sup>th</sup> Cong. 1<sup>st</sup> Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

520 days of examination delay overlaps with the period of 898 days attributable to the delay in the issuance of the patent. Entry of both periods is not warranted. Thus, 898 days is determined to be the actual number of days that the issuance of the patent was delayed.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

A handwritten signature in black ink, appearing to read 'Alesia Brown', with a stylized flourish at the end.

Alesia Brown  
Senior Petitions Attorney  
Office of Petitions

# Exhibit 1

Patent No.:	7,501,118 B2
Application Serial No.:	10/670,184
Applicant(s):	Keith, et al.
Group Art Unit:	1647
Filed:	September 24, 2003
Examiner:	Saoud, Christine J.
For:	HUMAN GENE RELATING TO RESPIRATORY DISEASES AND OBESITY



US007501118B2

(12) **United States Patent**  
**Keith et al.**

(10) **Patent No.:** **US 7,501,118 B2**  
(45) **Date of Patent:** **Mar. 10, 2009**

(54) **HUMAN GENE RELATING TO  
RESPIRATORY DISEASES AND OBESITY**

# FOREIGN PATENT DOCUMENTS

(75) Inventors: **Tim Keith**, Bedford, MA (US); **Randall Little**, Newtonville, MA (US); **Paul Van Eerdewegh**, Weston, MA (US); **Josée Dupuis**, Newton, MA (US); **Richard Del Mastro**, Norfolk, MA (US); **Jason Simon**, Westfield, NJ (US); **Kristina Allen**, Hopkinton, MA (US); **Sunil Pandit**, Gaithersburg, MD (US)

EP	1134286	9/2001
WO	WO 97/09420	3/1997
WO	WO 97/31109	8/1997
WO	WO 99/03878	1/1999
WO	WO 01/09293	2/2001
WO	WO 01/78894	10/2001
WO	WO 01/83782	11/2001
WO	WO 02/24927	3/2002
WO	WO 02/38744	5/2002
WO	WO 02/83077	10/2002

(73) Assignee: **Oscient Pharmaceuticals Corporation**, Waltham, MA (US)

(\*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 683 days.

(21) Appl. No.: **10/670,184**

(22) Filed: **Sep. 24, 2003**  
(Under 37 CFR 1.47)

(65) **Prior Publication Data**  
US 2004/0077011 A1 Apr. 22, 2004

## Related U.S. Application Data

(62) Division of application No. 09/548,797, filed on Apr. 13, 2000, now Pat. No. 6,683,165.  
(60) Provisional application No. 60/129,391, filed on Apr. 13, 1999, provisional application No. 60/146,336, filed on Jul. 30, 1999.

(51) **Int. Cl.**  
**A61K 39/395** (2006.01)  
**A61K 39/44** (2006.01)  
**C07K 16/18** (2006.01)  
**C07K 17/00** (2006.01)

(52) **U.S. Cl.** ..... **424/130.1**; 530/387.1; 530/387.9;  
530/388.1; 530/388.24; 530/389.2; 530/391.1

(58) **Field of Classification Search** ..... None  
See application file for complete search history.

(56) **References Cited**

## U.S. PATENT DOCUMENTS

5,011,912	A *	4/1991	Hopp et al.	530/387.9
5,552,526	A	9/1996	Nakamura et al.	
6,420,154	B1	7/2002	Sheppard et al.	
2003/0027275	A1 *	2/2003	Baker et al.	435/69.1

## OTHER PUBLICATIONS

GenBank Accession No. AA44255, Jun. 4, 1997, Hiller et al.  
GenBank Accession No. AL117415, Sep. 15, 1999, Blum et al.  
GenBank Accession No. AC017113, Dec. 14, 1999, Waterston.  
GenBank Accession No. AC055771, Apr. 20, 2000, Birren et al.  
Eerdewegh et al., 2002, *Nature*, 418:426-430.  
Alfandari et al., 1997, *Devel. Biol.*, 182:314-330.  
Collins et al., 2000, *Genetics and Mol. Biol.*, 23:1-10.  
D.R. Dunbar et al., 1997, "In situ hybridization mapping of genomic clones for five human respiratory chain complex 1 genes" *Cytogenet. Cell Genet.* 78:21-24.  
A.V. Lemberas et al., 1997, "Identification of an obesity quantitative trait locus on mouse chromosome 2 and evidence of linkage to body fat and insulin on the human homologous region 20q" *J. Clin. Invest.* 100:1240-1247.  
M. Hattori, et al., "Homo sapiens 206,647 genomic DNA of 20p," GenBank Accession No. AP002898, Submitted Oct. 22, 2000.  
GenBank Accession No. NM023038, Feb. 10, 2001, Wang, et al.  
GenBank Accession No. NM033274, Sep. 6, 2001, Fritzsche, et al.  
SNP Accession No. RS1422795, Dec. 1998.  
Howard, et al., 2002, *American Journal of Human Genetics*, 71:488.  
Van Eerdewegh, et al., 2002, *American Journal of Human Genetics*, 71:191.  
Supplementary Partial European Search Report for the related European national phase application No. 02795518.6 of the PCT Application No. PCT/US02/32700, actual completion of the European search date Apr. 26, 2007; date of mailing May 21, 2007.

\* cited by examiner

*Primary Examiner*—Christine J Saoud

(74) *Attorney, Agent, or Firm*—Morgan & Finnegan, L.L.P.

(57) **ABSTRACT**

This invention relates to isolated nucleic acids comprising genes of human chromosome 20p13-p12 and the proteins encoded by these genes. Expression vectors and host cells containing such genes or fragments thereof, as well as antibodies to the proteins encoded by these nucleic acids are also included herein.

**28 Claims, 59 Drawing Sheets**

## Exhibit 2

Patent No.:	7,501,118 B2
Application Serial No.:	10/670,184
Applicant(s):	Keith, et al.
Group Art Unit:	1647
Filed:	September 24, 2003
Examiner:	Saoud, Christine J.
For:	HUMAN GENE RELATING TO RESPIRATORY DISEASES AND OBESITY

10/670,184	NOVEL HUMAN GENE RELATING TO RESPIRATORY DISEASES AND OBESITY	05-06-2009::11:39:52
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## Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/670,184

Filing or 371(c) Date:	09-24-2003	USPTO Delay (PTO) Delay (days):	898
Issue Date of Patent:	03-10-2009	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	215
Post-Issue Petitions (days):	+0	Total PTA (days):	683
USPTO Adjustment(days):	+0	Explanation Of Calculations	

## Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
02-18-2009	PTA 36 Months	378	
03-10-2009	Patent Issue Date Used in PTA Calculation		
02-05-2009	Dispatch to FDC	⌘	
01-26-2009	Application Is Considered Ready for Issue	⌘	
01-23-2009	Issue Fee Payment Verified	⌘	
01-23-2009	Issue Fee Payment Received	⌘	
11-13-2008	Sequence Forwarded to Pubs on Tape	⌘	
10-24-2008	Mail Notice of Allowance	⌘	
10-21-2008	Notice of Allowance Data Verification Completed	⌘	
10-21-2008	Case Docketed to Examiner in GAU	⌘	
10-21-2008	Document Verification	⌘	
09-24-2008	Date Forwarded to Examiner	⌘	
09-22-2008	Amendment after Final Rejection		63
09-22-2008	Request for Extension of Time - Granted	⌘	
04-29-2008	Mail Post Card		⌘
04-21-2008	Email Notification		⌘
04-21-2008	Mail Final Rejection (PTOL - 326)		⌘
04-14-2008	Final Rejection		
08-09-2007	Information Disclosure Statement considered		
02-12-2008	Date Forwarded to Examiner		
12-21-2007	Response to a Letter to Comply with the Sequence Rules		
01-09-2008	CRF Is Good Technically / Entered into Database		
12-01-2007	Electronic Review		
11-30-2007	Email Notification		
11-29-2007	Mail Letter Requiring CRF (Unreadable, Non-Compliant, Not Submitted)		
11-13-2007	CRF Diskette Unreadable / Did Not Comply / Required but Not Submitted		
09-12-2007	CRF Is Flawed Technically / Not Entered into Database		
08-28-2007	Date Forwarded to Examiner		
08-27-2007	Response after Non-Final Action		62
08-27-2007	Request for Extension of Time - Granted		⌘



08-09-2007	Information Disclosure Statement (IDS) Filed	✖
08-09-2007	Information Disclosure Statement (IDS) Filed	✖
07-19-2007	Mail Examiner Interview Summary (PTOL - 413)	✖
03-08-2007	Examiner Interview Summary Record (PTOL - 413)	✖
03-26-2007	Mail Non-Final Rejection	✖
03-19-2007	Non-Final Rejection	
09-24-2003	Information Disclosure Statement considered	
10-12-2004	Information Disclosure Statement considered	
01-16-2007	Date Forwarded to Examiner	
01-04-2007	Response to Election / Restriction Filed	90
01-08-2007	Request for Extension of Time - Granted	✖
07-06-2006	Mail Restriction Requirement	✖
07-03-2006	Requirement for Restriction / Election	
07-01-2006	Case Docketed to Examiner in GAU	
10-12-2004	Reference capture on IDS	
06-27-2006	Date Forwarded to Examiner	
06-27-2006	Response to Election / Restriction Filed	
06-27-2006	Request for Extension of Time - Granted	
04-28-2006	Mail Restriction Requirement	520
04-27-2006	Requirement for Restriction / Election	✖
04-14-2006	Case Docketed to Examiner in GAU	✖
10-12-2004	Information Disclosure Statement (IDS) Filed	✖
10-12-2004	Information Disclosure Statement (IDS) Filed	✖
09-24-2003	Information Disclosure Statement (IDS) Filed	✖
09-24-2003	Information Disclosure Statement (IDS) Filed	✖
09-24-2003	Preliminary Amendment	✖
08-09-2004	Correspondence Address Change	✖
07-12-2004	Case Docketed to Examiner in GAU	✖
07-12-2004	IFW TSS Processing by Tech Center Complete	✖
09-24-2003	Reference capture on IDS	✖
01-13-2004	Application Return from OIPE	✖
01-13-2004	Application Return TO OIPE	✖
01-13-2004	Application Dispatched from OIPE	✖
01-13-2004	Application Is Now Complete	✖
12-05-2003	Cleared by OIPE CSR	✖
11-14-2003	IFW Scan & PACR Auto Security Review	✖
10-15-2003	CRF Is Good Technically / Entered into Database	✖
09-24-2003	CRF Disk Has Been Received by Preexam / Group / PCT	✖
09-24-2003	Initial Exam Team nn	✖

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